

Staff Summary Report



To: Mayor and City Council
Through: City Manager

Agenda Item Number 26
Meeting Date: 09/20/01

SUBJECT: FRY'S FOOD AND DRUG STORES #SFP-2001.39

PREPARED BY: Hector Tapia, Senior Planner (480-350-8331)

REVIEWED BY: Dave Fackler, Development Services Manager (480-350-8333)

BRIEF: This is the second public hearing for Fry's Food and Drug Stores to modify Council condition #24 by extending daytime delivery hours from 7 a.m. to 10 p.m., case #SGF-86.11, at 2700 West Baseline Road.

COMMENTS: **PLANNED DEVELOPMENT (0406)** Hold the second public hearing for **FRY'S FOOD AND DRUG STORES** (Sieber Investors LTD, property owner) for Final Plan of Development for a 102,676 s.f. shopping center on 8.23 net acres. The following approval is requested from the City of Tempe:

#SFP-2001.39 Amended Final Plan of Development for Fry Food and Drug Stores to modify an existing City Council condition of approval #24, case #SGF-86.11.

Previous Condition of Approval:

#24. Fry's standard hours of delivery shall be 6:00 A.M. to 11:00 A.M.

Document Name: 20010920devsrh07 **Supporting Documents:** Yes

SUMMARY: On July 24, 1986, City Council approved a zoning change from I-1 to PCC-1 and a General and Final Plan of Development for Southpoint Plaza. At that approval, Fry's Food and Drug Stores was the major anchor at that shopping center. Condition #24 was placed specifically for Fry's. Standard warehouse and vendors deliveries were restricted to the hours between 6:00 A.M. to 11:00 A.M. City staff did not receive complaints from the adjacent neighborhood until last year when Fry's was working on an overall store remodel. During the construction time of that remodel, Code Enforcement staff received complaints from adjacent neighbors regarding noise coming from the grocery store. According to the applicant, it was assumed that the noise came from trucks delivering groceries late at night. The applicant feels that the complaints were based on the remodel, not deliveries. The applicant also feels that the condition placed on Fry's in 1986 is too restrictive and has affected their business. The applicant would like to modify that condition to allow deliveries from 7:00 A.M. to 10:00 P.M. Staff feels that the required delivery time from 6:00 A.M. to 11:00 A.M. is too restrictive and uncommon to grocery stores. Staff recommends that the previously approved condition #24 be modified to allow Fry's Food and Drug delivery time hours from 7:00 A.M. to 10:00 P.M. To date, opposition and support have been received for this request.

RECOMMENDATION: Staff - Approval
Public - Comments

- ATTACHMENTS:**
1. List of Attachments
 2. History & Facts / Description
 3. Comments / Reasons for Approval / Conditions of Approval
-
- A. Location Map
 - B. Letter of Authorization
 - C. Previously approved conditions, #SGF-86.11

HISTORY & FACTS:

July 24, 1986.	Council approved a zoning change, General and Final Plan of Development and an appeal of Design Review Board denial for Southpoint Plaza.
June 11, 1987.	Council approved a use permit and parking variance for David Conti, DVM.
June 9, 1988.	Council approved an Amended Final Plan of Development for Pad "B".
July 10, 1992.	Council approved a time extension for David Conti, DVM.
November 9, 1995.	Council approved an Amended General and Final Plan of Development for Southpoint Plaza consisting of 3,600 s.f. building expansion for Shepler's Western Wear.
March 21, 1996.	Council approved and Amended General and Final Plan of Development for Southpoint Plaza shopping center including three building setback variances to allow new property lines within the shopping center.
September 13, 2001.	City Council held the first public hearing for this request.

DESCRIPTION: Owner - Sieber Investors LTD
Applicant – Mary Addington
Existing zoning – PCC-1
Total site area – 8.23 net acres
Total bldg. area – 102,676 s.f.
Lot coverage – 28%
Parking required – 447 spaces
Total Parking provided - 452
Landscaping – 15.26%

COMMENTS: On July 24, 1986, City Council approved a zoning change from I-1 to PCC-1 and a General and Final Plan of Development for Southpoint Plaza. At that approval, Fry's Food and Drug Stores was the major anchor at that shopping center. Condition #24 was placed specifically for Fry's. Standard warehouse and vendors deliveries were restricted to the hours between 6:00 A.M. to 11:00 A.M.

City staff did not receive complaints from the adjacent neighborhood until last year when Fry's was working on an overall store remodel. During the construction time of that remodel, Code Enforcement staff received complaints from adjacent neighbors regarding noise coming from the grocery store. According to the applicant, it was assumed that the noise came from trucks delivering groceries late at night. The applicant feels that the complaints were based on the remodel not deliveries. They also feel that the condition placed on Fry's in 1986 is too restrictive and has affected their business.

Planning staff received a phone call and e-mail from two neighbors expressing concern about noise from delivery trucks. Another neighbor supported this request indicating that by extending truck delivery times may help spread deliveries throughout the day rather than during the morning hours. Forcing all daily deliveries within a 5-hour period may create more traffic, noise, and pollution.

The applicant would like to modify condition #24 to allow deliveries from 7:00 A.M. to 10:00 P.M. Staff feels that the required delivery time from 6:00 A.M. to 11:00 A.M. is too restrictive and uncommon to grocery stores. Staff recommends that the previously approved condition #24 be modified to allow Fry's Food and Drug delivery time hours from 7:00 A.M. to 10:00 P.M.

**REASON(S) FOR
APPROVAL:**

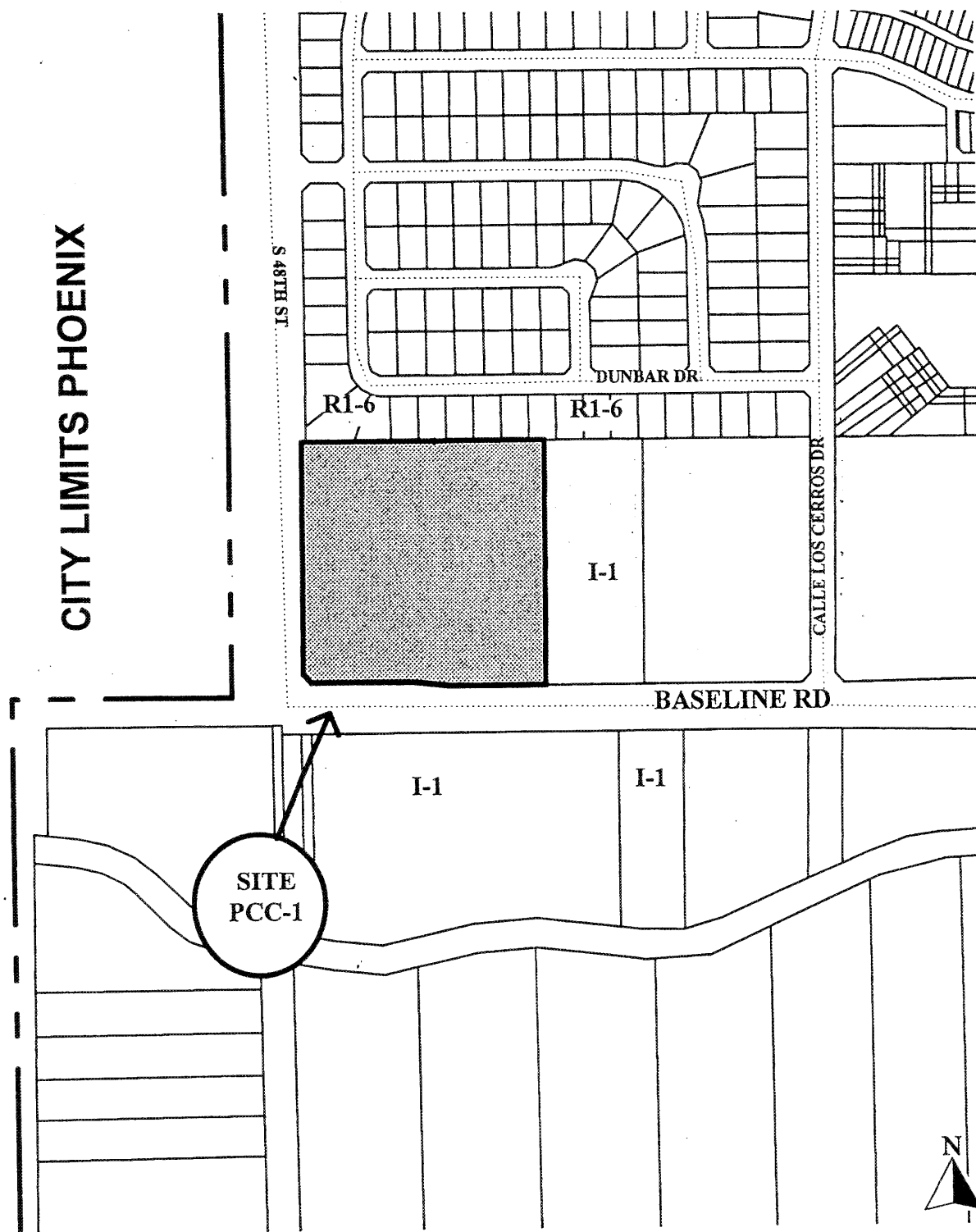
1. The requested modification to existing Council condition #24, #SGF-1986.11 (7:00 A.M. to 10:00 P.M.) appears not to be detrimental to surrounding property owners.
2. The proposed delivery hours should help Fry's schedule a better management plan on vendor deliveries.

**CONDITION(S)
OF APPROVAL:**

1. Fry's Food and drug standard hours of delivery shall be between 7:00 A.M. to 10:00 P.M
2. Any significant verifiable police complaints (as determined by the City Attorney and Police Dept.) shall require the applicant to return to the City Council for re-evaluation of condition #1.

FRY'S FOOD & DRUG STORES

SFD-2001.39



Location Map SEE OTHER SIDE FOR MORE INFORMATION

A

SYMBOL(S):



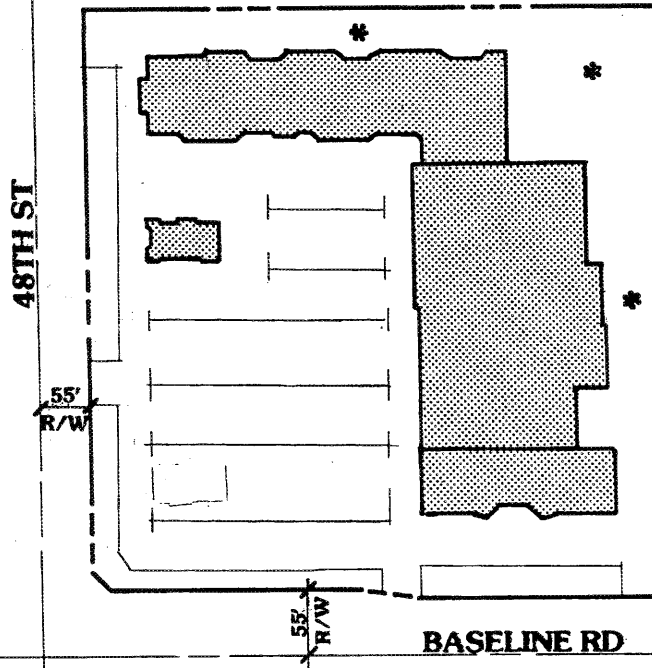
EXISTING BUILDING(S)

CONDITION OF APPROVAL
(SEE BELOW)



SITE DATA:

NET ACRES: 8.23 AC
TOTAL BLD'G AREA: 102,676 S.F.



PUBLIC HEARING NOTICE

This is a notice for two public hearings for **FRY'S FOOD AND DRUG STORES** (Sieber Investors LTD, property owner) for Final Plan of Development for a 102,676 s.f. shopping center on 8.23 net acres. The following approval is requested from the City of Tempe:

#SFP-2001.39 Amended Final Plan of Development for Fry Food and Drug Stores to modify an existing City Council condition of approval #24, case #SGF-86.11.

Previous Condition of Approval:

#24. Fry's standard hours of delivery shall be 6:00 A.M. to 11:00 A.M.

MAILED
08-29-01

If you are interested you may attend either one or both of the two public hearings of the City Council at 7:30 p.m. **Thursday, September 13 and September 20, 2001 at the Council Chambers, 31 East Fifth Street.** These will be public hearings and you may present your views in person at the hearing. Or you may respond in writing to the City Clerk, P. O. Box 5002, Tempe, AZ 85280-5002.

If you have any questions or wish to view additional material including artists renderings and elevations which are on file you may contact the Development Services Department at 350-8331 or come in to the office at 31 East Fifth Street. Procedures for the public hearing may be picked up at the City Clerk Office or at the public hearing itself.

The City of Tempe endeavors to make all public meetings accessible to persons with disabilities. With 48 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call 350-8331 (voice) or 350-8400 (TDD) to request an accommodation to participate in the City Council meeting.

FILE COPY

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500 S. 99th Ave.
Tolleson, Arizona 85353
(623) 936-2100

City of Tempe
Development Services Dept.
31 E. 5th Street
Tempe, Arizona 85282-5002

**Re: Official Authorization to Represent;
Fry's Food & Drug Stores**

To Whom It May Concern:

Please be advised that I have authorized Mary Addington and Fahmi Hashish to represent Fry's in all matters that may arise before the City of Tempe as concerns Fry's.

If you should have any questions, please do not hesitate to call me.


Very truly yours,

A handwritten signature in black ink, appearing to read 'M. Donnelly'.

Mike Donnelly
President of Fry's

MD/df

cc: Jim Cismesia, Fry's
Ken Matz, Fry's
Mary Addington, Fry's
Fahmi Hashish, Fry's



CITY OF TEMPE

P.O. Box 5002

Tempe, Arizona 85281

(602) 967-2001

REVISED

August 5, 1986

Wayne R. Peterson
HSW Investments Inc.
1255 West Baseline Rd., #184
Mesa, AZ 85202

Re: ZON-86.02 SGF-86.11 DRB-86.141

Dear Mr. Peterson:

At their regular meeting of July 24, 1986, the Tempe City Council approved the request of HSW INVESTMENTS INC. to Appeal the Denial of the Design Review Board on building elevations, site and landscape plans for South Point Plaza in the PCC-1, Planned Commercial Center located at 2600 W. Baseline Road.

At this same meeting of July 24, 1986, the Tempe City Council also approved the request by HSW INVESTMENTS for a zoning change from the I-1, Light Industrial District to the PCC-1, Planned Neighborhood Commercial Center District for 8.23 net acres, a General and Final Plan of Development for Southpoint Plaza consisting of 99,076 s.f. on 8.23 net acres located at the NEC of 48th Street and Baseline Road (File Address - 2602 W. Baseline Road). The following was also approved:

Variances

- a. Increase the allowed site coverage from 25% to 28% for buildings (32% including canopies).
- b. Increase the allowed fence height from 6' to 8' along the north and east property lines.

NOTE: At the same meeting, the Tempe City Council also rescinded its votes of June 27th and July 10th on the conditions of approval for the above project, and approved the following set of superseding conditions:

1. a. Public Works Department approval of all roadway, alley and utility easement dedications, driveways, storm water retention and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.

WILLIAM J. REAM, Vice Mayor
DON CASSANO, Councilman
PATRICIA A. HATTON, Councilman

HARRY E. MITCHELL, Mayor
JAMES L. ALEXANDER, City Manager

WILLIAM J. LOPIANO, Councilman
ROWLAND G. OONK, Councilman
FRANK PLENCNER, Councilman

- b. Off-site improvements to bring roadways to current standards include:
 - (1) Water lines and fire hydrants.
 - (2) Sewer lines.
 - (3) Storm drains.
 - (4) Roadway improvements including curb, gutter, and 8' wide bikepath or 5' wide sidewalk.
- c. Fees to be paid with the approval of this project include:
 - (1) Water and sewer development fees.
 - (2) Street light investment costs.
 - (3) Water and/or sewer participation charges.
 - (4) Inspection and testing fees.
- 2. Full arterial street dedication shall be made within six (6) months of Council approval and shall be reflected on the subdivision map prior to recordation.
- 3. Building permit shall be obtained and substantial construction commenced within two years of the date of Council approval or the zoning shall revert to that in place at the time of application.
- 4. Perimeter off-site improvements along arterial streets must be installed within six months of the City Council action.
- 5. Should this parcel be subdivided, CC&R's shall be approved by the City Attorney's Office and the Community Development Director prior to recordation of the plat. Any proposed future amendments shall also require approval by the City Attorney's Office.
- 6. A Preliminary hydrology study shall be reviewed by the Public Works Department prior to Design Review Board.
- 7. Any subdivision of this property may require the processing of variances.
- 8. 65' of right-of-way on Baseline (as required by the Public Works Department) to be indicated on the plan and the site redesigned to provide the right-of-way prior to Design Review Board.

C,

9. 30' of on-site landscaping to be provided on the Baseline and 48th Street frontages as shown on the plan. Balance of landscaping frontage to comply with minimum code requirements.
10. Additional landscaping to be provided at the pad buildings and along the main buildings. Details to be resolved with the Design Review Board.
11. Upgrades to the elevations shall be studied. Details to be resolved with the Design Review Board.
12. Bicycle parking to be provided at the buildings. Details to be resolved with the Design Review Board.
13. Landscape plan be revised prior to Design Review Board.
14. Architecture of the pads to be the same as the center itself.
15. Written agreement of understanding between the neighbors and the Applicant shall be provided prior to Design Review Board.
16. Utilization of a 3' screening wall and landscaping shall be provided along 48th Street and Baseline.
17. DELETED
18. Poisoning for insect control prior to the clearing of the land.
19. Poisoning for insect control upon completion of the clearing of the land.
20. The installation of an 8' c.m.u. zoning wall on the north side of the property with stucco on both sides of the wall.
- *21. The landscape buffer along the north property line shall be comprised of a double row of TEN FOOT Aleppo and Mondell Pine trees spaced in accordance with the landscape plan presented to the Planning Commission.
22. Site lighting along the north property line shall consist of light poles not to exceed 25' in height placed in the landscape buffer with no more than 20° angle of light directed to the north, similar to the lighting pattern on the attached spec sheet.
23. The compactor enclosure in the rear of the shopping center shall have a gate, details to be approved by the Refuse Department.

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Peterson,
02 SGF-86.111 DRB-86.141

24. Fry's standard hours of delivery shall be 6 a.m. to 11 a.m.
25. The finish floor of the shops on the north end of the center shall be lowered approximately 2.0' in elevation, providing that it is feasible from an engineering point of view to tie into the sewer on Minton.
26. The islands at both east and west ends of the parking row at the southeast corner of the site on Baseline shall be expanded, with additional landscaping installed to wrap around the stalls. This will result in the loss of 2 stalls and the total floor area shall be reduced proportionally or a variance must be requested.

*Conditions #9 and 21 were revised per 7/29/86 letter from Richard Neuheisel.

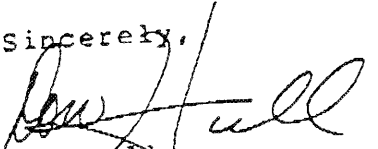
After compliance with the above conditions, the required copies of the General and Final plan of Development (two double-matte photo mylars), with conditions and variances listed, should be signed by the necessary parties and forwarded to our office. Also send a check made payable to the Maricopa County Recorder, for final processing and recording. (For fee charge, please check with one of our Planning Aides.)

After recording the map, you are required, as per Ordinance 381, to furnish the City of Tempe with the following prints of the recorded map:

- 3 - Full Size Blueprints
- 2 - Xerox Copies (8 1/2" x 14")
- 5 - Reduced Photo Positives (8 1/2" x 14")
- 1 - Full Size Photo Mylar

This may be done either by you or the City of Tempe. Please contact the Planning Division if you decide to have these prints made yourself, otherwise you will automatically be billed by a Blueprint Company for approximately \$65.00.

Sincerely,


Don Hall
Community Development Director

DH:jrh
cc:

File No. DRB-86.141
Richard Neuheisel
Building Safety Dept.
Public Works Dept.

Engineering Dept.
Traffic Engineer
Real Estate Officer

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